

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

BONNIE BRYSON and CLAIRE SHEPARDSON,  
on behalf of themselves and  
all others similarly situated,

Plaintiffs

v.

Civil No. 99-cv-558-SM  
CLASS ACTION

JOHN STEPHEN, in his capacity as  
Commissioner of the State of  
New Hampshire Department of  
Health and Human Services; and  
MATTHEW ERTAS, in his capacity as  
Director of the State of  
New Hampshire Bureau of  
Developmental Services,

Defendants

**O R D E R**

Plaintiffs' revised requests for findings of fact and rulings of law are resolved as follows:

**Plaintiffs' Requests for Findings of Fact - GRANTED**

1-37; 39-42; 44-47; 49; 51-60; 68-78; 80-98; 100-106; 109; 111-112; 114; 120-131; 133; 134; 136; 138; and 140 to the extent forcing an increase on the waiver cap does not fundamentally alter the State's program.

**Plaintiffs' Requests for Findings of Fact - DENIED**

38; 43; 48; 50; 61-67; 79; 99; 107; 108; 110; 113; 115; 116; 117; 118; 119; 132; 135; 137; 141; and 142.

**Plaintiffs' Requests for Findings of Fact - NOT RELEVANT**

**Plaintiffs' Requests for Rulings of Law - GRANTED**

1-13.

**Plaintiffs' Requests for Rulings of Law - DENIED**

14; 15; 16; and 17.

Defendants' post-trial revised requests for findings of fact and rulings of law are resolved as follows:

**Defendants' Findings of Fact GRANTED by Agreement of the Parties:**

1-6; 9-29; 31-33; 42; 45; 48a-52; 55-58; 66; 73-74; 109-111; 113-115; 117-118; and 120-120b.

**Defendants' Findings of Fact - GRANTED - (Plaintiffs Contest):**

7; 8; 30; 34; 35; 36; 37; 38; 39; 40; 41; 43; 44; 46; 47; 48; 53; 59; 60; 61; 63; 64; 68 is **DENIED** as to comparative savings - **GRANTED** as to overall cost savings due to "backfill"; 69 as to overall cost increases; 70; 75; 76; 77; 78; 79; 79a; 80; 81; 82; 83; 85; 85a; 86; 86a; 87; 88; 89; 91; 92; 93; 94; 95; 96; 97; 98; 99; 100; 101; 102; 103; 105; 106; 112; 116; 119; 121; 122; 122a; 127; 128; 129; 130; 131; 133; 134; and 135.

**Defendants' Findings of Fact - DENIED**

104; 107 denied as to any acceleration of pace; and 108.

**Defendants' Findings of Fact - NOT RELEVANT**

54; 65; 67; 90; 125; and 126.

**Defendants' Findings of Fact - WITHDRAWN**

62; 71; 72; 84; and 132.

**Defendants' Request for Rulings of Law - GRANTED**


1; 2; 3; 4; 5; 6; 7; 8; 9 only to the extent that "Those patients who are on the waiting list and for whom slots are available are . . . 'eligible' under the statute such that they are entitled to reasonable promptness." Bryson v. Shumway, 308 F.3d 79, 82 (1st Cir. 2002) (footnote omitted, citation omitted); 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 31a; 32; 33; 35; 36; 42; 43; and 45.

**Defendants' Request for Rulings of Law - DENIED**

**Defendants' Request for Rulings of Law - NOT RELEVANT**

34; 37; 38; 39; 40; 41; and 44.

**SO ORDERED.**

  
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Steven J. McAuliffe  
United States District Judge

September 29, 2006

cc: Amy B. Messer, Esq.  
Suzanne M. Gorman, Esq.